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# MOUNTAIN VIEW RENTAL HOUSING MEDIATION— A GRASS ROOTS PROGRAM

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JANIE V. WARMAN\*

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The United States Department of Justice recently developed experimental Neighborhood Justice Centers in three cities across the nation. These are defined as “facilities...designed to make available a variety of methods of processing disputes, including arbitration, mediation, referral to small claims courts as well as referral to courts of general jurisdiction.”<sup>1</sup>

In the specialized area of resolution of housing-related disputes, the City of Mountain View provides its citizens an alternative to the court system. Like the neighborhood justice center, the Mountain View alternative seeks to effectively provide justice, while avoiding the courts' expensive and back-logged system.

## *Need for Program*

Mountain View, located on the San Francisco peninsula, lies in the center of the highly populated Santa Clara Valley, home of “silicon valley” and major electronic industries. In contrast to surrounding suburban populations, two-thirds of Mountain View's 60,000 population live in rental housing,<sup>2</sup> mostly apartments. At one point, transiency was high and the frequency of landlord-tenant problems was apparently

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1. Pound Conference Follow-Up Task Force Report, A.B.A. (August 1976).

2. See City of Mountain View General Plan, *Housing Mix, Residential Neighborhoods*, 3 BACKGROUND REPORT 3-11 (Jan. 1979).

increasing. Because of these problems, the planning commission's Housing Committee<sup>3</sup> examined the concept of a tenant-landlord adjudication program.

The Housing Committee was comprised of citizens concerned with growing tensions in the rental housing community. Many county agencies reported a high number of problems with Mountain View rental housing. The committee met for eight months during 1974, discussed housing problems, and researched alternatives for city involvement and action. The committee's report to the council outlined the need for a rental housing mediation program.<sup>4</sup>

While other dispute settlement projects have been established throughout the country with funding from the Law Enforcement Assistance Administration, the Mountain View mediation program is one of the few which evolved as a grass roots program administered through the local government.

The Housing Committee recommended the city council's adoption of the mediation concept because the service would: 1) increase the potential for longer tenure by the city's existing renters; 2) help eliminate discrimination in the Mountain View rental housing market; 3) improve living conditions in Mountain View rental housing; 4) improve conditions of ownership of rental housing in Mountain View; 5) improve relationships between rental owners and renters, or agents of owners and renters in the City of Mountain View; and/or 6) insure that the legal

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3. The Housing Committee was established in 1972 as a special committee of the Environmental Planning Commission. It consists of citizens interested in matters concerning the city's housing conditions and policies. Originally there was one EPC member for every ten citizens. Now that ratio is one for every five.

4. See Housing Committee Recommendations on Landlord-Tenant Problems, City of Mountain View (Housing Committee File, 1974). The five major findings were:

- a) In 1970, 63% of all Mountain View residents were renters (now approximately 70%).
- b) Renter tenure, relative to owner tenure, is short-lived.
- c) A significant number of calls were received by other government agencies or the Mid-Peninsula Citizens for Fair Housing regarding rental housing problems in Mountain View.
- d) Changing laws and court decisions modified the traditional landlord-tenant relationship and the City of Mountain View was encouraged to assist both tenants and landlords in establishing and maintaining positive and beneficial relationships.
- e) Both tenants and landlords were valuable assets to the City of Mountain View and should be encouraged to own and/or reside in Mountain View. Rental housing mediation, as a community service, would affirm the value of rental housing by the city.

rights and responsibilities of both Mountain View's owners and renters would be observed.

The committee was particularly concerned that the program be neutral, objective and impartial. In order to ensure that no bias against the landlord was exhibited, a concerted effort was made to involve the Tri-County Apartment Association (consisting of apartment owners) in the formation of the program and to ensure that an equal number of tenants and landlords became volunteers. The committee members also realized that a growing number of judicial decisions<sup>5</sup> expanded tenants' rights and imposed greater obligations upon the landlords. The committee sought to balance the rights of the two groups.

Although there are more tenant initiated complaints than landlord initiated complaints, the city does receive mediation requests from landlords. A key factor to the success of the program is its non-advocacy role.

### *Adopted as a Pilot Program*

When the council adopted the program's concept in January 1975,<sup>6</sup> it used Community Development Block Grant funding to establish a one-year pilot program. If the program proved successful,<sup>7</sup> the council would consider continuing the pilot program.

After the pilot year, the staff analyzed the program's progress and recommended that the council adopt the program for the following year. On August 8, 1977, the council passed a resolution<sup>8</sup> approving the following year's budget and appointing the program volunteers for the succeeding year. Since that time, the council has annually approved the program's continuation.

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5. Jerome G. Rose, *New Definitions in Planning Law: A Review of the 1972-7 Judicial Decisions* 40 J. AM. INST. PLAN 249 (1974).

6. City of Mountain View, RES. NO. 10475, SER. 1975 (May 12, 1975).

7. Success was to be gauged according to previously established evaluation criteria. The goals and criteria for evaluating the first year were:

- a) Respond to 1,000 inquiries.
- b) Reduce landlord-tenant cases from Mountain View in Small Claims Court by 20%.
- c) Reduce police responses to rental housing problems.
- d) Decrease in number and severity the rental housing complaints filed with other area agencies.
- e) Increase satisfaction by persons utilizing Mountain View's rental housing supply.

8. City of Mountain View, RES. NO. 11667, SER. 1977.

### *Program Description*

The mediation program provides the city's landlords and tenants with an alternative dispute settlement method that is more satisfactory than the time-consuming and costly judicial process. The council appoints twenty-two volunteer residents, consisting of one-third landlords, one-third tenants and one-third residents for a two-year term. Each is then trained to mediate housing-related disputes.

An individual with a housing problem calls the housing "hotline" where trained staff members determine whether referral to another agency, simple information, or mediation would be appropriate. Brochures on security deposits, evictions, and other items on rental information are sent to the caller when appropriate. If the caller chooses mediation, the staff contacts a mediator who then contacts the other party involved in the dispute. If the other party is willing to meet, the mediator locates a neutral meeting place and asks a co-mediator to be present at the session. When the mediation has been completed, the staff receives a report for statistical tabulation, but the mediation session is kept confidential. A written report is sometimes received, but more often the mediator simply calls the staff to record the results.

The housing coordinator, who is employed by the City of Mountain View under the supervision of the director of planning, administers the program. The coordinator arranges the contract for the "hotline" services,<sup>9</sup> recruits, interviews, and trains the volunteers each year, and otherwise coordinates all facets of the program.

### *Training the Volunteers*

After formal appointment of new volunteers by the city council, a training program begins. Mediators receive approximately eleven hours of training during three evening sessions. The housing coordinator is the primary instructor; however, former mediators are encouraged to attend the sessions and participate in the training. The format includes theory, communication skills, strategies for problem solving, review of basic landlord-tenant terms and definitions, and an extensive amount of role playing.

During the year, on-going training is accomplished through meetings

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9. These services are provided on an annual contract basis through the Mountain View Information and Referral Services. Two trained staff members are always available at the phones.

where experiences are discussed. As part of the training, cases are discussed; however, no names are used in order to keep client confidentiality. One of the small claims court judges or a lawyer may be a guest speaker at these meetings.

When the program was first established, an advisory board interviewed and selected volunteers, and evaluated the program. After a year, however, the board was replaced with experienced mediators. These mediators serve in an advisory capacity, and sometimes aid in training and interviewing program volunteers.

### *Statistical Reporting*

Complete documentation, including the number and types of calls received, and the number of mediations, is maintained in the city's files. During 1978, approximately 1,625 calls were answered and 171 mediations were held. The most frequent types of problems received are those regarding refund of security deposits, eviction notices, repairs to the property, and rental increases.

### *Success of the Program—Methods of Evaluation*

When initially set up, the council wanted an effective evaluation procedure in order to annually measure program success. Criteria for measuring the program's success was based on the program's goals. The local small claims court cases were researched and the number of landlord-tenant cases for the period between 1972 and 1975 were documented. The following year, after the program was instituted, the same procedure was used and the findings showed a forty-seven percent reduction in small claims court cases. By 1977, there was an eighty percent total reduction in court cases.

The city's police department had received approximately 365 rental housing calls each year prior to the program's implementation. The staff documented a significant decrease in police involvement after that first year. Now, if a caller dials the police department, the call is referred to the mediation number.

Another goal was to decrease the number and severity of rental housing disputes filed with other agencies. The various social agencies reported a drop in the number of calls; additionally, the length of calls actually received were reduced because the caller was referred immediately to the Mountain View "hotline."

The above methods were devised in an effort to quantitatively evaluate

the major goal of the program which is to reduce tensions in the rental housing market. Obviously, it is important to evaluate this data, particularly the great decrease in court cases.

There are, however, other underlying factors contributing to the "success" of the program which are more difficult to evaluate. When the caller receives information, that knowledge may enable him/her to solve a problem which otherwise may have escalated into a dispute. For example, although there are no longer "non-refundable" security deposits in California, many landlords still withhold a portion of the deposit. After a tenant has verified through the Mountain View program that this is unlawful (and a printed page on the subject is sent out if requested), the tenant may question the landlord after discussing the issue with the program staff.

If the landlord is told that the city's program has been contacted, the landlord may be reluctant to withhold any deposit without cause. In this hypothetical case, it would be impossible to judge the "success" of the program because so many unknown variables are present and because the "case" never reached the mediation stage.

Arguably,<sup>10</sup> merely getting the parties to negotiate constitutes a success when they were otherwise not communicating with one another. If mediation is viewed as a type of success, the program's success is nearly guaranteed. Rather than changing behaviors, mediation changes attitudes as a result of the parties discussing their underlying problems. Research, however, cannot furnish statistics on the benefits of court absence.

Like the neighborhood justice center,<sup>11</sup> the landlord-tenant<sup>12</sup> mediation process has the capacity to restructure the relationship between disputants rather than simply dealing with the surface symptoms of the relationship. Although the mediator is taught to keep the session focused on the facts of the situation, very often the disputants reveal underlying disturbances which have aggravated the "facts" to an unpleasant extent.

One important difference between Mountain View's mediation process and the neighborhood dispute centers is the voluntary nature of the city's

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10. Presentation by Professor William Felstiner, U.S.C. Social Services Research Institute, to the Alternative Dispute Settlement Practitioner's Confab (June 22, 1978).

11. D. McGillis & J. Mullen, *Neighborhood Justice Centers, An Analysis of Potential Models*, LAW ENFORCEMENT ASSISTANCE AD., U.S. DEPT OF JUSTICE (October 1977).

12. Although the legal community refers to these as "landlord-tenant" cases, it is common to use this term in non-legal situations.

program. The neighborhood dispute centers are linked with the court system and disputants are asked to mediate or conciliate before a court date is made. Although the local courts are aware of Mountain View's program and may pass out information brochures to citizens, they are in no way involved with the voluntary program. After all, mediation is not the solution to every kind of landlord-tenant dispute and sometimes a disputant will not be satisfied until he has his "day in court."

The housing section has received letters of appreciation from disputants after the mediation session resolved their problems. This method of evaluating success, while not of a quantitative nature, is probably the most satisfying for those involved in the process.

### *Budget and Expenditures*

The program's first year budget of \$14,091 was allocated in November 1975. Since the staff was paid through CETA<sup>13</sup> funding from the beginning of the program until September 1977, only a small portion of the budgeted amount was spent from November 1975 to September 1977.<sup>14</sup> In October 1977, CETA funding was no longer used and the program was funded through the Community Development Block Grants. During the fiscal year 1978-1979, the total budget for the rental housing program was approximately \$18,000. The budget included \$9,500 for contractual service of handling daily calls. The half-time required by the housing coordinator, advertising, and overhead make up the remainder of the budget. With volunteers comprising the bulk of the program, the cost of a rental housing mediation program is minimal.<sup>15</sup>

### *Publicity*

The community is informed about the program by newspaper articles, paid announcements, and literature<sup>16</sup> distributed throughout the city. When annual recruitment for new volunteers begins, public service announcements and articles appear regularly in the media. Mountain View funds its own free newspaper, *The View*, which includes articles on the program during the August recruitment period.

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13. CETA refers to the Comprehensive Employment and Training Act, a federal program designed to increase employment throughout the country.

14. Approximately \$6,146 was spent.

15. See City of Mountain View, Community Block Grant Applications (1975-79).

16. Copies of brochures may be obtained by contacting the Housing Committee of the City of Mountain View.



*Resolution by the State of California*

In September 1978, the California State Legislature adopted a resolution<sup>17</sup> urging cities and counties to establish rental housing mediation programs, citing Mountain View as one of three California cities which has shown positive results from a successful mediation program. This measure was sent to all cities and counties in the state. As a result, several cities have contacted Mountain View and at least nineteen cities have received packets from the housing section describing its by-laws and brochures.

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17. Assembly Concurrent 116, Relative to Rental Housing mediation programs, filed September 18, 1978.